



UNITED STATES MARINE CORPS  
MARINE CORPS RECRUIT DEPOT/WESTERN RECRUITING REGION  
SAN DIEGO, CALIFORNIA 92140

DepO 12713.4D  
1B  
25 SEP 1989

DEPOT ORDER 12713.4D

From: Commanding General  
To: Distribution List

Subj: EQUAL EMPLOYMENT OPPORTUNITY (EEO) PROGRAM

Ref: (a) CPI 713 (NOTAL)  
(b) FPM 720 (NOTAL)  
(c) 29 C.F.R. Part 1613 (NOTAL)

Encl: (1) EEO Program Officials and Responsibilities  
(2) EEO Complaint Procedures

1. Purpose. To establish and promulgate the EEO Program for the Marine Corps Recruit Depot in accordance with references (a), (b), and (c).

✓ 2. Cancellation. Depot Order 12713.4C.

3. Information. The EEO Program has as its objective the maximum use of an individual's skills, abilities, and all human resources without regard to irrelevant considerations such as age, race, color, religion, sex, national origin, physical or mental handicap. The duties and responsibilities of individuals in furthering the EEO Program are set forth in enclosure (1). Procedures for processing individual discrimination complaints are contained in enclosure (2). Class complaints of discrimination shall be processed in accordance with the procedures outlined in reference (a).

4. Summary of Revision. This Order has been revised to incorporate the following organizational and procedural changes:

- a. Name Change. The title, Exchange Officer, has been updated to AC/S, MWR.
- b. Subcommittees. Deletes the requirement for a Federal Women's Program (FWP) subcommittee and a Hispanic Employment Program subcommittee. (Outreach is now performed by the EEO Specialist).
- c. Enclosure (1), paragraph 6. Establishes duties of the EEO Specialist.
- d. Enclosure (1), paragraph 8f. Changed the EEO Committee meetings from quarterly to semiannually.
- e. Enclosure (2), paragraph 2a. Complainants should be assigned to counselors by their respective DEEO to capture required data on counseling, distribute the work load between collateral duty counselors, and route non EEO concerns to the proper area for resolution.
- f. Enclosure (2), paragraph 7. The Office of Civilian Personnel Management eliminated the requirement to name an alleged discriminating official.

5. Policy

a. It is the policy of the Government of the United States to provide equal opportunity in Federal employment to all qualified persons; to prohibit discrimination in employment because of age, race, color, religion, sex, national origin, physical or mental handicap, or reprisal for prior EEO complaint involvement; and to promote the full realization of equal opportunity through a positive, continuing program. The policy of equal opportunity applies to every aspect of Federal employment for employees paid both from appropriated and nonappropriated funds.

b. The goal of the Department of the Navy and of this Command is a fully integrated work force. That is, full utilization of minority personnel and women in all organizational units, occupations, and grade levels.

EEO Program Officials and Responsibilities

1. Deputy Assistant Secretary of the Navy (Civilian Personnel Policy and EEO).

The Secretary of the Navy has assigned responsibility for the Department of the Navy EEO Program to the Deputy Assistant Secretary of the Navy (Civilian Personnel Policy and EEO).

2. Equal Employment Opportunity Officer (EEEO). The Commanding General is the EEEO for the Marine Corps Recruit Depot and as such is personally responsible for the effective execution within his Command of the Department of the Navy Equal Employment Opportunity Policy.

3. Deputy Equal Employment Opportunity Officers (DEEO). The Commanding General shall appoint two part-time DEEO's aboard this Depot. Appointment of DEEO (Civil Service) shall be made upon recommendations of the Civilian Personnel Director and appointment of DEEO Nonappropriated Fund (NAF) shall be made upon recommendations of the Assistant Chief of Staff, MWR. Recommendations for appointments shall be submitted to the Commanding General for action. The DEEO (NAF) shall serve in this capacity for all Depot nonappropriated fund activities. DEEO's shall be responsible for, but not necessarily limited to, performing the following duties in their respective areas:

- a. Be responsible for coordinating all aspects of the EEO Program.
- b. Serve as principal advisors to the Commanding General on EEO matters.
- c. Be responsible for developing and submitting an annual budget that encompasses the EEO Program.
- d. Be responsible for making nominations to the Commanding General for EEO counselor appointments.
- e. Ensure adequate training of EEO counselors.
- f. Be responsible for receiving and ensuring proper processing of formal discrimination complaints in accordance with current laws, executive orders, and regulations.
- g. Provide technical advice concerning the EEO Program to the Commanding General, investigating officers, EEO counselors, and upon request, to hearing officers.
- h. Serve as ex-officio members of the EEO Committee.
- i. Prepare required Affirmative Action Plans with input from EEO Committee and line management officials.
- j. Prepare reports as required.

4. DEEO (Civil Service). In addition to the above requirements, the DEEO (Civil Service) shall be responsible for performing the following duties:

- a. Submit nominations to the Commanding General for appointment of EEO Committee members, the FWP Manager, and Counselors. Input from the DEEO (NAF) shall be obtained when it is desired to nominate NAF employees for membership on the EEO Committee, as a program manager, or counselor.
- b. Provide technical advice to the EEO Committee and to the special program managers.

5. FWP Manager. The FWP is an integral part of the overall EEO Program. The Commanding General shall appoint one employee to serve as the FWP Manager for the Depot on a part-time basis. The FWP Manager serves as special advisor to the Commanding General on the FWP and functions as such under supervision of the DEEO (Civil Service). The duties of the FWP Manager include representing this Command in

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(3) If the counselor receives or is assigned a discrimination complaint, make sure that he or she understands the complaint and what corrective action or relief the employee is seeking.

(4) Notify the DEEOO that he or she has received a drop-in discrimination complaint and what the complaint is about.

(5) Notify their work supervisors that they have received or been assigned a discrimination complaint without identifying the complainant.

(6) Process the complaint in a businesslike manner as befitting the role of a counselor.

(7) Schedule their counseling sessions and interviews in advance and notify their work supervisors of their proposed schedule.

(8) Request their work supervisors to excuse them from their regular work in order to perform their EEO counselor duties.

(9) Recognize their responsibilities to both their work supervisors and the EEO complainants and try to schedule their interviews so as to cause minimum interference with their regular work assignments.

(10) Contact the DEEOO for any guidance or assistance required in processing a case or for information they may require in answering a question relative to EEO. In any case, contact the DEEOO prior to conducting the final counseling session with the complainant.

(11) Notify their work supervisors when the final counseling session has been completed.

(12) Notify the DEEOO when final counseling session has been held.

#### 8. EEO Committee

a. The EEO Committee has been established by the Commanding General to provide a means of eliminating unfair or discriminatory situations or practices related to age, race, color, religion, sex, national origin, physical or mental handicap before a complaint results. The Committee is not involved with discrimination based on factors other than those given above. The Committee does not take part in individual discrimination complaints or grievance proceedings, but may conduct investigations of matters affecting groups of employees, or the civilian work force as a whole. The Committee conducts a continuing evaluation of EEO programs and makes recommendations for changes and improvements. The Committee also serves as an advisory staff to the Commanding General on equal employment matters and continuously reviews the Depot Affirmative Action Plan and Federal Equal Opportunity Recruitment Plan to provide suggestions for future revision.

b. The composition of the Committee shall, to the extent possible, be representative of the various ethnic, occupational, and organizational groups comprising the civilian work force of this Depot and shall include male and female members.

c. Members of the Committee shall be nominated by the DEEOO (Civil Service) and shall be appointed by the Commanding General. The EEO Specialist, the DEEOO (NAF), and the DEEOO (Civil Service) shall serve as ex-officio members. All of these officials, or their representatives, shall attend all Committee meetings. Appointments shall be staggered, as necessary, to provide continuity.

d. The Civilian Personnel Director shall also serve as technical advisor to the Committee.

e. A list of Committee members shall be posted on all official civilian bulletin boards.

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## EEO COMPLAINT PROCEDURES

1. Representation. At every stage of the complaint process, the employee shall have the right to a representative of his or her own choice. The designation will be made in writing and submitted to the DEEOO. The complainant's choice of representative may be denied by the Command only when the representation would result in a conflict of interest or position. An employee may decline to serve as the representative for a complainant.

## 2. Precomplaint Processing

a. An employee, former employee, or applicant for employment (appropriated or nonappropriated fund) who believes he or she has been discriminated against by this Command for any of the reasons listed below should initially contact the DEEOO at the appropriate civilian personnel office for assignment of an available counselor. Contact with a counselor must be performed within 30 calendar days of the alleged discriminatory act or the effective date of an alleged discriminatory personnel action. The time can be extended by the Command when through no fault of the complainant, counselor contact was delayed.

b. Civil service employees shall utilize civil service EEO counselors. Nonappropriated fund employees shall use EEO counselors assigned from NAF employees.

c. To be acceptable, a complaint must allege discrimination based upon one or some combination of the following:

(1) Age. A complainant must allege that he or she was at least 40 years of age at the time of the alleged discrimination. There is no upper age limit.

(2) Race. A complaint may be filed by any individual, including a member of a nonminority racial group.

(3) Color

(4) Religion. A complaint may be filed by any individual, including a member of a nonminority religion.

(5) Sex. A complaint may be filed by either male or female individuals. Under this provision, a complaint may also be filed alleging discrimination on the basis of pregnancy, childbirth, any related medical conditions, or sexual harassment.

(6) National Origin. A complaint may be filed by any individual, including a member of a nonminority national origin group.

(7) Physical or Mental Handicap. A complaint may be filed by any qualified handicapped person who:

(a) Has a physical or mental impairment which substantially limits one or more of such person's major life activities.

(b) Has a record of such an impairment.

(c) Alleges that he or she is regarded as having such an impairment.

(8) Reprisal. A complaint may be filed by an individual who alleges restraint, interference, coercion, discrimination, or reprisal because of having raised an allegation of discrimination on the basis of one or more of the factors set forth in subparagraph 2c (1 through 7) above or because of having served as a representative of, or a witness for, another individual in connection with such an allegation. A complaint may also be filed by an employee alleging restraint, interference, coercion, discrimination, or reprisal because of his or her duties as an EEO counselor, investigator, or EEO official in connection with a complaint of discrimination coming within the purview of 29 C.F.R. Part 1613.

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representative. Counselors shall keep notes, but shall not prepare reports unless a formal complaint is filed.

m. A counselor should not be assigned and may not accept any request for counseling which would result in a conflict of interest. Conflict of interest exists when the counselor:

(1) Was personally involved in the action of concern to the aggrieved person (e.g., a candidate for the same vacancy for which the aggrieved person applied).

(2) Supervises or is supervised by the aggrieved person.

(3) Otherwise has a relationship with the aggrieved person which might impair impartial resolution efforts.

(4) In order to properly pursue the aggrieved person's concern, the counselor would have to have access to documents of personal interest to the counselor which otherwise would be protected as part of a Privacy Act record system. A counselor may not counsel his or her own concerns.

### 3. Formal Complaint Processing

a. If the matter is not resolved by the counselor, an employee, former employee or applicant for employment may file a formal written complaint of discrimination because of age, race, color, religion, sex, national origin, physical or mental handicap, or reprisal for prior EEO complaint involvement. The complaint may be filed with the Secretary of the Navy, the Deputy Assistant Secretary of the Navy for Equal Opportunity, the Navy's FWP Manager, or Navy's Hispanic Employment Program Manager, all located at the Navy Department, Washington, D. C. 20350. However, to expedite processing of the complaint, it is urged that the complainant file directly with the DEEO (the Commanding General), since the complaint will be referred to this Command for processing, regardless of with whom it is filed.

b. The Commanding General has designated the DEEO to administratively process discrimination complaints. The DEEO (NAF) will process all complaints for NAF employees or applicants for employment. The DEEO (Civil Service) will process complaints for civil service employees or applicants for employment.

c. A formal complaint must be submitted in writing, signed by the complainant, and timely filed by the complainant or the representative who has been designated in writing by the complainant. NAVSO Form 12713/1, "Complaint of Discrimination in the Department of the Navy", or equivalent, should be used for filing the formal complaint. The form is available from the Civilian Personnel Office for civil service employees and from the MWR Personnel Office for nonappropriated fund employees. A formal complaint of discrimination must be filed within 15 calendar days after the date of final interview with the EEO counselor. The date the complaint is deemed filed for the purpose of determining time limits is on the date it is personally delivered to one of the above officials, or if mailed, the postmark date. Time limits may be extended at the discretion of the activity (i.e., the complainant demonstrates that he or she was not notified, or otherwise unaware of time limits).

d. Upon acceptance of a formal written complaint of discrimination by this Command, the appropriate DEEO will initiate action for investigation of the complaint and will coordinate the processing of the complaint at this Depot, in accordance with current Marine Corps, Navy, and EEO Commission directives.

e. A Notice of Receipt of Discrimination Complaint shall be promptly sent to the complainant. This notice is not an acceptance of the complaint, but an acknowledgment that it has been received by the DEEO. The notice also advises the complainant of his or her rights and time limitations in the formal complaint process.

f. After review of the EEO counselor's report, the complainant shall be notified by letter of the definition of his or her complaint and the acceptance, rejection, or cancellation of the issue(s) contained therein. The letter shall set forth the

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b. A complainant must file an appeal within 20 calendar days of receipt of a DON decision; 30 calendar days are allowed for supporting information. A request for extension of the time limit requires supporting arguments.

5. Official Time for the Complainant. Official time allocations during counseling are generally limited to the time actually spent in the meeting(s) with the counselor. During investigation, official time shall generally be limited to the time spent meeting with the investigator. The informal adjustment attempt is conducted on official time. If a hearing is held, time spent in the hearing shall be allowed. If the complaint' file is voluminous or there are multiple or complex issues, additional official time may be allocated upon written request by the complainant. Such requests should be submitted to the cognizant division head, or in the case of Headquarters and Service Battalion and Recruit Training Regiment employees, to the appropriate Commanding Officer. Nonappropriated fund employees should submit their requests to the Assistant Chief of Staff/MWR. Complainant's representatives who are also Depot employees in a duty status are similarly entitled to official time. Representatives employed by other federal activities are responsible for requesting such time from their activity heads. Approval of such time is discretionary.

6. Relationship to Other Agency Procedures

a. Matters Appealable to the Merit Systems Protection Board (MSPB). If an allegation of discrimination is introduced by an individual in connection with a personnel action already appealed to MSPB (e.g., removal), the individual may elect to have the MSPB add the complaint to his or her appeal and have the Board process both under the MSPB procedures, or may elect to have the complaint processed separately in accordance with this instruction. If the latter course is chosen, the MSPB shall be notified by the DEEOO so that it may suspend the appeal process and allow the activity 180 calendar days to reach a resolution of the complaint. If after 180 calendar days from the receipt of a filed complaint, a resolution has not been obtained to the satisfaction of the individual, he or she may include the matter in an appeal with the MSPB. Individuals who have been before the MSPB with a matter involving allegations of discrimination and have received a final decision pursuant to the MSPB's regulations, may petition the Office of Review and Appeal of EEOC, to consider issues of prohibited discrimination within 30 days after receipt of notice of the final MSPB decision, or file a civil action in an appropriate U. S. District Court within 30 days of receipt of the Board's final decision.

b. Matters Presented Under the Administrative Grievance Procedure. If an allegation of discrimination is introduced in connection with an administrative grievance already in progress, the individual must be counseled to select either the grievance route or suspend the grievance route and adopt the complaint procedure of this Order.

c. Matters Presented Under Negotiated Grievance Procedures. Negotiated grievance procedures may provide for the processing of allegations of discrimination. An employee in a unit covered by such a negotiated grievance procedure will have the option of using either the negotiated grievance procedures or the procedures of this Order, but will be required to file a written election of procedures if an attempt is made to file identical allegations under both procedures. Election of such negotiated procedures does not, however, prejudice a complainant's rights as provided by statute.

7. Alleged Discriminator

a. An alleged discriminator is an individual or individuals alleged to be responsible for the occurrence of a specific action, or the promulgation of a particular policy, which has been alleged to be discriminatory. The nature of certain actions or the long-standing nature of certain policies may mean that there is no individual personally responsible. Although an aggrieved person seeking counseling of a complainant may name one or more individuals believed to be responsible for action or policies which are the subject of their allegations, they need not attempt to name such individuals because the CPI 713 reemphasizes the position expressed in FPM Letter 713-42 that complaints are considered to be lodged against agencies, not against individuals; and reaffirms the purpose of the complaint procedure to be essentially fact-finding in nature, and not intended to indict or to try individuals. This does

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Date: \_\_\_\_\_

From: Equal Employment Opportunity Counselor, Marine Corps Recruit Depot,  
San Diego, California 92140

To: \_\_\_\_\_  
(Name of Person Counseled) (Home Address or Depot Organization)

Subj: NOTICE OF RIGHT TO FILE A DISCRIMINATION COMPLAINT

1. This is to inform you that although counseling on the matter you brought to my attention has not been completed, 21 calendar days have gone by since you first contacted me. You are now entitled, if you want to do so, to file a discrimination complaint if you believe you have been discriminated against on the basis of age (40 or over), race, color, religion, sex, national origin, physical or mental handicap, or retaliation (reprisal) for prior EEO complaint involvement.

2. If you do not file a complaint at this time, counseling will continue and your right to file a complaint will also continue until 15 calendar days AFTER THE FINAL INTERVIEW. I will inform you in writing when the final counseling interview is conducted.

3. If you file a complaint, it must be in writing and may be filed in person or by mail with the following official who is the Depot Equal Employment Opportunity Officer:

Commanding General  
(Equal Employment Opportunity Officer)  
Marine Corps Recruit Depot  
San Diego, California 92140

Complaints may also be filed with the Secretary of the Navy, the Deputy Assistant Secretary of the Navy (Civilian Personnel Policy and Equal Employment Opportunity), the Navy's Federal Woman's Program Manager, or the Navy's Hispanic Employment Program Manager, all located at the Navy Department, Washington, D. C. 20350. However, to expedite processing your complaint, it is urged that you file directly with the Equal Employment Opportunity Officer, MCRD, since your complaint will be referred to this person for processing, regardless of with whom it is filed. The complaint must be specific and must be limited to the matters we have discussed.

4. You have the right to be accompanied, represented, and advised by a representative of your own choosing as long as their position does not present a conflict of interest. If you are a Department of the Navy employee and you designate another Department of the Navy employee as your representative, that representative shall have a reasonable amount of official time, if he or she is otherwise in an active duty status, to assist you in presenting and processing the complaint. A REGULATION OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, 29 C.F.R. 1613.213(a), STATES THAT IT IS A "COMPLAINANT'S DUTY TO ASSURE THAT THE AGENCY IS IMMEDIATELY INFORMED IF THE COMPLAINANT RETAINS COUNSEL, OR ANY OTHER REPRESENTATIVE."

5. If you choose to file a formal discrimination complaint, you will receive a notice of receipt from the Deputy Equal Employment Opportunity Officer.

\_\_\_\_\_  
(Signature of the Counselor)

Receipt Acknowledged \_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

APPENDIX A To  
ENCLOSURE (2)

Date: \_\_\_\_\_

From: Equal Employment Opportunity Counselor, Marine Corps Recruit Depot,  
San Diego, California 92140

To: \_\_\_\_\_  
(Name of Person Counseled) (Home Address or Depot Organization)

Subj: NOTICE OF FINAL INTERVIEW WITH EEO COUNSELOR

1. This is notice that on the above date, the final counseling interview was held in connection with the matter you presented to me.
2. If you believe you have been discriminated against by this Command on the basis of age (40 or over), race, color, religion, sex, national origin, physical or mental handicap, or retaliation (reprisal) for prior EEO complaint involvement, you have the right to file a formal COMPLAINT OF DISCRIMINATION WITHIN 15 CALENDAR DAYS AFTER RECEIPT OF THIS NOTICE.
3. The complaint must be in writing and may be filed in person or by mail with the following official who is the Depot Equal Employment Opportunity Officer:

Commanding General  
(Equal Employment Opportunity Officer)  
Marine Corps Recruit Depot  
San Diego, California 92140

Complaints may also be filed with the Secretary of the Navy, the Deputy Assistant Secretary of the Navy (Civilian Personnel Policy and Equal Employment Opportunity), the Navy's Federal Woman's Program Manager, or the Navy's Hispanic Employment Program Manager, all located at the Navy Department, Washington, D. C. 20350. However, to expedite processing your complaint, it is urged that you file directly with the Equal Employment Opportunity Officer, MCRD, since your complaint will be referred to this person for processing, regardless of with whom it is filed. The complaint must be specific and must be limited to the matters we have discussed.

4. You have the right to be accompanied, represented, and advised by a representative of your own choosing as long as their position does not represent a conflict of interest. If you are a Department of the Navy employee and you designate another Department of the Navy employee as your representative, that representative shall have a reasonable amount of official time, if he or she is otherwise in an active duty status, to assist you in presenting and processing the complaint. A REGULATION OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, 29 C.F.R. 1613.213(a), STATES THAT IT IS A "COMPLAINANT'S DUTY TO ASSURE THAT THE AGENCY IS IMMEDIATELY INFORMED IF THE COMPLAINANT RETAINS COUNSEL, OR ANY OTHER REPRESENTATIVE."

5. If you choose to file a formal discrimination complaint, you will receive a notice of receipt from the Deputy Equal Employment Opportunity Officer.

\_\_\_\_\_  
(Signature of the Counselor)

Receipt Acknowledged \_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

APPENDIX B to  
ENCLOSURE (2)